IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

WP(C).No. 2994 of 2007(F)

PETITIONER:

T.K. VIBHURAJ, THAZHATHUMURIYIL HOUSE,
K.R. PURAM, WEST ROAD,
CHERTHALA, ALAPPUZHA.

BY ADV. SRI.C.S.MANU

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF TAXES, GOVT.SECRETARIAT,
TRIVANDRUM.

2. JOINT REGIONAL TRANSPORT OFFICER,
CHERTHALA.

3. DISTRICT COLLECTOR, ERNAKULAM.

4. DEPUTY TAHSILDAR (R.R.), CHERTHALA.

5. VILLAGE OFFICER, PALLIPPURAM VILLAGE,
CHERTHALA.

6. E.M. JOSEPH, KALANJITHODATHIL HOUSE,
MANGANAM, KOTTAYAM DISTRICT.

BY GOVERNMENT PLEADER SRI.JULIEN XAVIER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

WP(C).No.2994 of 2007-F

Dated this the 25th day of January, 2007.

JUDGMENT

The petitioner is the registered owner of the vehicle bearing Registration No.KL- 4A 2314. He submits he has transferred it to the 6th respondent by receiving consideration for the same on 29-3-1996. At the time of transfer, the entire tax due was paid. Subsequently, the transferee has defaulted to pay the tax. So, the petitioner being the registered owner of the vehicle, revenue recovery steps were taken against him. He filed O.P.19600 of 2000 challenging revenue recovery proceedings. The said O.P. was disposed of by Ext.P3 judgment dated 28-7-2004. This court repelled the challenge of the petitioner, but ordered that recovery shall be made against the petitioner as well as the transferee. The said judgment reads as follows.

> " In the circumstances, the second respondent is directed to proceed both against the petitioner and against the person in possession of the vehicle for realisation of the arrears of motor vehicles tax."

2. The petitioner appealed. That appeal was dismissed by

Ext.P4 judgment affirming the judgment of the learned Single Judge. Now, again revenue recovery notice has been issued demanding tax for the period from 1-10-1998 onwards. Exts.P5 and P6 are the demand notices under Sections 7 and 34 of the Revenue Recovery Act. Now, this writ petition is filed seeking a direction to respondents 2 to 5 to proceed against the 6th respondent and to seize and sell the vehicle.

3. There is already a direction by this court to proceed against the 6th respondent. Therefore, a direction to proceed against him again cannot be granted as the petitioner's remedy is to initiate contempt proceedings, if the direction against the 6th respondent is not obeyed. To proceed against the 6th respondent means to proceed against his movables also which includes the vehicle No.KL -4A 2314 and also against his immovables. Therefore, the present writ petition cannot be entertained in view of Ext.P3 judgment which was affirmed by the Division Bench.

Accordingly, the writ petition is disposed of without prejudice to the right of the petitioner to initiate appropriate proceedings, if the direction in Ext.P3 is disobeyed.

(K.BALAKRISHNAN NAIR)
JUDGE

MS